

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  ATLAS COMMUNICATIONS, LTD.,  Respondent.	DOCKET NO. FCU-03-60
---	----------------------

**ORDER DOCKETING FOR FORMAL PROCEEDING  
AND REQUESTING RESPONSE**

(Issued January 21, 2004)

On December 23, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to impose civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution issued in C-03-246, involving Atlas Communications, Ltd. (Atlas), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On November 3, 2003, Ms. Shari Green filed a written complaint with the Board alleging that Atlas billed unauthorized charges for Internet services on her local telephone bill. Board staff identified the matter as C-03-246 and, pursuant to Board rules, on November 6, 2003, forwarded the complaint to Atlas for response.

Atlas responded to the complaint on December 1, 2003, stating that its records showed that Ms. Green signed up for a "FreeCalls4You Premium Plus" plan from Atlas by completing an on-line form and selecting "Sign Me Up" at the bottom of the order page. Atlas stated that its "FreeCalls4You Premium Plus" plan provides new subscribers with long distance savings on U.S. domestic service without changing the primary interexchange provider. Atlas stated that customers access its service using a toll free number and complete calls using a personal identification number. In addition, Atlas stated that it cancelled Ms. Green's account and issued a refund to Ms. Green's account in the amount of \$60.33.

On December 9, 2003, Board staff issued a proposed resolution describing these events and proposing that the credit offered by Atlas represented a fair resolution of the situation. No party other than the Consumer Advocate has challenged the Board's petition.

In its December 23, 2003, petition, Consumer Advocate asserts that a civil penalty should be imposed against Atlas. In addition, Consumer Advocate asserts that other cramming complaints received by Board staff have named Atlas as the alleged violating company. Consumer Advocate requests that the Board docket this

complaint for a formal proceeding and impose civil penalties on Atlas. Atlas has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date as well as the additional cramming complaints made against Atlas and finds that there is sufficient information to warrant further investigation in this matter. The Board will delay establishing a procedural schedule until March 22, 2004, and direct that Atlas respond to the allegations raised in Consumer Advocate's petition.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on December 23, 2003, identified as Docket No. FCU-03-60, is granted and docketed for formal proceeding.

2. Atlas Communications, Ltd., is directed to file a response to the petition filed by Consumer Advocate on December 23, 2003, on or before March 22, 2004.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 21<sup>st</sup> day of January, 2004.